APPENDIX

(No. 108)

(Approved June 29, 1965)

AN ACT

To regulate the private detective profession, the private detective agencies, the safety agencies for the protection of private enterprises, and the schools for the training of private detectives, and to fix penalties for violations of this act.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.—Short Title.—This act may be cited as the "Private Detectives Act of Puerto Rico".

Section 2.—Definitions.—For the purposes of this act:

"Private Detective", is a person who for private purposes, or in behalf of private persons exclusively, hires his services to (a) conduct investigations or inquiries with the purpose of obtaining information on public offenses, damages caused or attempted; the habits, credibility, conduct, movements, whereabouts, associations, transactions, reputation or character of any person; the location of stolen or lost property with the object of recovering same through the corresponding legal procedures; the causes and origin of and responsibility for fires or accidents or damages to real or personal property; the occurrence of any event; the truth or falsehood of any statement or representation; (b) procure or obtain evidence to be used before investigative or arbitration committees or boards or before the courts in civil or criminal actions; (c) protect persons or real or personal property; or for preventing thefts or the misapplication or illegal appropriation of money, bonds, stock, or any kind of securities or documents.

"Agency", includes "Private Detectives Agency" and "Safety Agency for the Protection of Private Enterprises".

"Private Detectives Agency" shall mean and include any person engaged in the private detective business and employing one or more persons for such purposes.

"Safety Agency for the Protection of Private Enterprises" shall mean and include any person especially engaged in the rendering of custodial services or in the protection of private property in industrial, commercial and mercantile establishments, or in those related with agricultural enterprises and employing one or more persons for such purposes.

"School" shall mean any person or entity engaged in the teaching and training of private detectives.

"Superintendent" shall mean the Superintendent of the Police of Puerto Rico.

"Person" shall mean any natural or artificial person.

Section 3.—License required:—On and after the effectiveness of this act it shall be illegal to engage in the private detective business without first having obtained a license to that effect, issued by the Superintendent in accordance with the terms of this act.

Section 4.—License requirements for private detectives:—To obtain a license as private detective the following qualifications shall be required:

* * * *

(k) To have successfully passed a course of study in a private detectives school authorized by the Police Superintendent, with a minimum of 1,000 hours of study, and competent professional practice as determined by the Superintendent through regulation.

* * * *

Section 7.—Bonds.—For the obtaining of a license as private detective or for the operation of an "Agency" it shall be a prerequisite to give a bond in favor of the Commonwealth of Puerto Rico for the sum of five thousand

(5,000) dollars, which shall always be kept for said sum, to answer for any damages caused a third person through culpable or negligent action or omission. The bond may be through deposit in cash, mortgage, or by a surety or fidelity company or corporation authorized to do business in Puerto Rico.

* * * *

Section 16.—Regulating Power.—The Superintendent shall, with the approval of the Governor, promulgate such rules and regulations as he may deem convenient to make more feasible the implementation of this act, subject, insofar as applicable, to the provisions of Act No. 112 of June 30, 1957.

Section 17.—Causes for revocation or refusal to renew Licenses:—Any of the following causes shall be ground for revoking or refusing to renew a license:

* * * *

Section 19.—The private detectives and agencies covered by this act shall not use trained dogs in the rendering of the services defined in section 2.

Section 20.—The private detectives and agencies covered by this act shall not render the services defined in section 2 in cases involving conflicts among laborers or labor-management disputes, or where a petition for election has been filed. Neither shall they render said services to an employer with whom a labor union has negotiated a collective agreement for the rendering of equal services, or when, upon expiration of a collective agreement, the parties are negotiating a new agreement.

The testimony of private detectives shall not be admitted in court on matters about which they have obtained information as a result of services rendered in violation of the prohibition established in this section; neither the oral testimony of any person who has learned of the facts on which he is testifying while acting as agent, attorney or

collaborator or by instructions of private detectives; nor any documentary or objective evidence likewise obtained.

* * * *

Section 27.—Exemptions:—Any person who has been practicing for at least one year prior to the approval of this act the profession of private detective in Puerto Rico, and all persons who have belonged to the Detective Corps of the Commonwealth of Puerto Rico or of any State of the Union, or to any Investigation Corps attached to the Police, or to the Federal Bureau of Investigations (FBI), and have been honorably discharged therefrom, shall be entitled to a private detective license upon application therefor within ninety (90) days after the effective date of this act. The application shall be sworn to before an officer authorized to administer oaths in Puerto Rico and shall state the applicant's name and surnames, date and place of birth, place of residence, time he has lived in Puerto Rico, time during which and places where he has practiced the occupation of private detective; however, all such persons shall comply with the requirements of section 4, with the exception of the provisions of subsections (j) and (k).

* * * *

Section 30.—Penalties.—Any person who violates any of the provisions of this act; or who engages in the occupation of private detective or operates an "Agency" without being authorized therefor by a license issued in accordance with this act; or who falsely holds out himself to be a private detective or an employee of an "Agency"; or who discloses information in violation of the provision of section 18 of this act; and any person who hires the services of a private detective or "Agency" knowing that such detective or "Agency" does not hold a license issued in accordance with this act, shall be guilty of a misdemeanor and shall upon conviction be punished by a fine of not less than one hundred (100) dollars, or by imprisonment for

not more than six (6) months, or both penalties, fine and imprisonment, in the discretion of the court.

Section 31.—Saving Clause.— • • • •

Neither shall the provisions of this act be applicable to public insurance adjusters, nor to watchmen, night watchmen and guards who in their individual capacity are engaged in such trades or occupations in private enterprises or in public, industrial, commercial or agricultural establishments.

Section 32.—Any regulations that the Secretary may prescribe shall be adopted after proper public hearings by said officer in which all parties concerned shall be heard.

Such regulations shall take effect once they are filed in the Department of State in accordance with Act No. 112 of June 30, 1957, and the Governor has, through proclamation, set the date of effectiveness.

Section 33.—Effectiveness:—This act shall take effect July 1, 1965.

COMMONWEALTH OF PUERTO RICO
POLICE OF PUERTO RICO

REGULATION OF PRIVATE DETECTIVES, PRIVATE DETECTIVE AGENCIES, SAFETY AGENCIES AND PRIVATE DETECTIVE SCHOOLS

I

GENERAL PROVISIONS

• • • • •

Section 3

None of the provisions of this Regulation shall be applicable to Private Detectives nor to Private Detective Agencies nor to Safety Agencies when they are rendering services for public purposes and for the benefit of the

United States of America, the Commonwealth of Puerto Rico or any of the Municipal Governments of Puerto Rico, or of any political subdivision or public corporation of these Governments. None of the provisions of this Regulation shall be applicable to detectives or agents of the Puerto Rico Police, appointed in accordance with law, nor to any person employed by the Police of Puerto Rico while in the discharge of his official duties; nor to any magistrate or attorney in the practice of his profession; nor to any person whose business is to furnish information as to the business, financial condition and credit of natural or artificial persons; nor to any person who investigates by himself any matter in which said person is an interested party; neither the provisions be [sic] applicable to public insurance adjusters, nor to watchmen or night watchmen who, in their individual capacity, are engaged in such trades or occupations in private enterprises or in public, industrial, commercial or agricultural establishments.

* * * *

III

THE PRIVATE DETECTIVES

Section 12

According to the provisions of section 2 of Act No. 108, the Private Detectives are classified in three different categories:

(a) The Private Detective who performs investigations or inquiries with the purpose of obtaining information about the various matters indicated in section 2(a) of Act No. 108.

(b) The Private Detective who seeks or obtains evidence to be used in judicial or quasi-judicial proceedings, referred to in section 2(b) of Act. No. 108.

(c) The Private Detective who protects persons or properties with the purpose of preventing the com-

mission of the crimes mentioned in section 2(c) of Act No. 108.

• • • •

Section 14

In addition to evidencing compliance with the requirements and conditions stated in the preceding section, the Private Detectives, in order to obtain a license as such, shall:

(i) Have completed successfully a course of study in a Private Detective School, authorized by the Superintendent of Police. The course of study shall contain a minimum of 1,000 hours of study and competent professional practice, in accordance with the following determinations:

(a) In the case of the Private Detectives mentioned in section 12(a) of this Regulation, 500 hours of study and 500 hours of competent professional practice will be required.

(b) In the case of the Private Detectives mentioned in section 12(b) of this Regulation, 500 hours of study and 500 hours of competent professional practice will be required.

(c) In the case of the Private Detectives mentioned in section 12(c) of this Regulation, 100 hours of study and 900 hours of competent professional practice will be required.

(ii) Have passed a written examination prepared by the Superintendent with the purpose of measuring the understanding of the applicant as to those matters reasonably related with the functions that he will have to fulfill. The functions to be fulfilled being different for the various classes of Private Detectives, the Superintendent shall bear in mind these circum-

stances when preparing the examinations for each one of the classes of Private Detectives.

(iii) Have kept good behavior and reputation in the past, as evidenced by the investigations that, for said purpose, the Superintendent will conduct, according to the provisions of subsection 4 of section 15 of Act No. 108. To facilitate these investigations, every applicant, upon filing his petition, will authorize the Superintendent of Police to carry out, on behalf of petitioner, efforts, with the purpose of obtaining from any private institution, official agency of the Government of Puerto Rico and the Federal Government, including the Armed Forces, pertinent information about applicant, comprising work, medical and scholastic history and any other information that is contained in the files of said agencies and institutions with reference to applicant. The information so obtained shall be used by the Superintendent solely for official purposes.

Section 15

No person who is or has been a Private Detective, or an employee of a Private Detective, shall divulge, privately or publicly, any information obtained by him in the course of his employment, except upon the prior written consent of the person that contracted his services, excepting such information which refers to the commission of crimes and those instances in which it is legally required to submit said information. Every Private Detective, in his capacity as employer, shall strictly comply with the obligation imposed upon him by the second paragraph of section 18 of Act No. 108.

* * * *

IV

THE AGENCIES

Section 17

Under the provisions of Act No. 108 and of this Regulation two classes of Agencies are established:

(i) The Agency of Private Detectives, referring to any person, natural or corporate, engaged in practicing the profession of Private Detective and that, for said purpose, employs one or more persons.

(ii) The Safety Agency for the protection of private enterprises, which refers to any person, natural or corporate, specially engaged in furnishing custodial services or to protecting private property in industrial, commercial or business establishment, or in those establishments connected with the development of agricultural enterprises, that, for said purposes, employs one or more persons.

• • • •

VI

DEFINITIONS

Section 24

For the purposes of Act No. 108 and of this regulation "trained dogs" are those dogs that have received training in obedience, nose work and criminal work, and to perform these duties accompanied by or in coordination with their respective handlers.

Section 25

For the purposes of Act No. 108 and this Regulation, the terms "conflicts among laborers", "labor-management disputes" and "where a petition for election has been filed", will have the following meanings respectively:

(a) "Conflicts among laborers" will refer to those labor conflicts that develop between groups of workers, provided said conflicts are affecting, substantially, the normal operation of some enterprise or the public interest.

(b) "Labor-management disputes" will refer to strikes and threats of strikes, meaning by threats of strikes, those instances in which a labor organization officially notifies the employer that in [sic] a fixed date it will go on strike, or instances in which there are clear signs that there has been a break in the collective bargaining and there exists a strike threat clearly evidenced by concrete acts directed or oriented to give rise to a strike movement.

(c) "Where a petition for election has been filed" shall mean cases where a petition for election has been filed because of the existence of a "conflict among laborers" or a "labor-management dispute", as these terms are respectively defined in the subsections a and b of this section.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

Civil No. 395-65.

THE WACKENHUT CORPORATION, MARVIL INTERNATIONAL SECURITY SERVICES, INC., and ROBERT S. HOPLER, *Plaintiffs*

v.

THE HON. SALVADOR RODRIGUEZ APONTE, Superintendent of Police, THE HON. RAFAEL HERNANDEZ COLON, Secretary of Justice and THE HON. ROBERTO SANCHEZ VILELLA, Governor of the Commonwealth of Puerto Rico.

Before MARIS and MCENTEE, Circuit Judges, and RUIZ-NAZARIO, District Judge.

Opinion of the Court

(Filed June 23, 1966)

By MARIS, Circuit Judge.

The plaintiffs in this case seek an injunction restraining the enforcement against them of the Private Detectives Act of Puerto Rico approved June 29, 1965, No. 108. Upon their application a district judge then temporarily presiding by assignment in this court issued a temporary restraining order on September 16, 1965. Upon the application of the plaintiffs the Chief Judge of the First Circuit on January 13, 1966 constituted the present district court of three judges to hear and determine the plaintiffs' application for an interlocutory and permanent injunction. Hearings were held on February 8, February 11 and April 27, 1966.

The Wackenhut Corporation, one of the plaintiffs, is a Florida corporation authorized to do business in Puerto Rico. Marvil International Security Services, Inc., another of the plaintiffs, is a corporation of Puerto Rico, and Robert S. Hopler, the third plaintiff, is a resident

of Puerto Rico and district manager in Puerto Rico of The Wackenhut Corporation. Both Wackenhut and Marvil are engaged in the business as independent contractors of providing guards and watchmen services for industrial concerns. They allege that the Private Detectives Act of Puerto Rico deprives them of liberty, property and livelihood without due process of law in violation of the Constitution of the United States in that

> "(a) It unreasonably, arbitrarily and capriciously prohibits them from rendering the same services which it is permissible for persons in their individual capacity to render.
>
> "(b) It unreasonably, arbitrarily and capriciously includes guards and watchmen employed by agencies providing guard and watchman services to the general public in the definition of 'private detectives'.
>
> "(c) It unreasonably, arbitrarily and capriciously prohibits said plaintiffs from rendering guard and watchman services during the course of conflicts among workers, or between workers and employers, or in cases in which petitions for union elections have been filed, whereas said plaintiffs would not be so prohibited were they rendering said services in their individual capacity.
>
> "(d) It unreasonably, arbitrarily and capriciously prohibits plaintiff Marvil from using trained dogs in rendering guard and watchman services, whereas an individual rendering said services with trained dogs would not be so prohibited."

Section 3 of the Private Detectives Act which became effective July 1, 1965, makes it illegal to engage in the private detective business without first having obtained a license from the Superintendent of Police. Section 2 defines "Private Detective" as

"... a person who for private purposes, or in behalf of private persons exclusively, hires his services to (a) conduct investigations or inquiries with the purpose of obtaining information on public offenses, damages caused or attempted; the habits, credibility, conduct, movements, whereabouts, associations, transactions, reputation or character of any person; the location of stolen or lost property with the object of recovering same through the corresponding legal procedures; the causes and origin of and responsibility for fires or accidents or damages to real or personal property; the occurence of any event; the truth or falsehood of any statement or representation; (b) procure or obtain evidence to be used before investigative or arbitration committees or boards, or before the courts in civil or criminal actions; (c) protect persons or real or personal property; or for preventing thefts or the misapplication or illegal appropriation of money, bonds, stock, or any kind of securities or documents."

One of the requirements imposed by section 4 for obtaining a license as a private detective is

"(k) To have successfully passed a course of study in a private detectives school authorized by the Police Superintendent, with a minimum of 1,000 hours of study, and competent professional practice as determined by the Superintendent through regulation."

Section 7 requires all licensed private detectives and agencies to furnish a bond in the sum of $5,000.00.

The act also regulates and requires the licensing of private detectives agencies and of safety agencies for the protection of private enterprises. By section 2 "Private Detectives Agency" is defined to mean and include

"any person engaged in the private detective business and employing one or more persons for such purposes."

"Safety Agency for the Protection of Private Enterprises" is defined to mean and include

> "any person especially engaged in the rendering of custodial services or in the protection of private property in industrial, commercial and mercantile establishments, or in those related with agricultural enterprises and employing one or more persons for such purposes."

Section 19 of the Act prohibits private detectives and agencies covered by the Act from using trained dogs in the rendering of the private detective services defined in section 2 of the Act.

Section 20 prohibits private detectives and agencies covered by the Act from rendering services in cases "involving conflicts among laborers or labor-management disputes, or where a petition for election has been filed."

Section 31 states that the provisions of the Act shall not be applicable "to watchmen, night watchmen and guards who in their individual capacity are engaged in such trades or occupations in private enterprises or in public, industrial, commercial or agricultural establishments."

Finally section 16 of the Act authorizes the Superintendent of Police with the approval of the Governor to "promulgate such rules and regulations as he may deem convenient to make more feasible the implementation" of the Act.

The contentions of the plaintiffs may be summarized as follows:

They assert first, that it is arbitrary and unconstitutional for the Act to join in a single category for purposes of regulation under the designation "private detectives" those who merely serve to protect persons or propery as watchmen or guards with those who conduct investigations

and procure evidence who are commonly known as detectives and whom we have called sleuths.

Secondly, they assert that it is arbitrary and unconstitutional to impose the same requirement of 1,000 hours of preliminary scholastic study upon both groups.

They urge in the third place that it is arbitrary and unconstitutional to prohibit the use of trained dogs by those guards who are required to have licenses as private detectives when the Act does not prohibit the use of trained dogs by public officials or by watchmen and guards employed by private enterprises.

Finally, they urge that it is arbitrary and unconstitutional to prohibit licensed private detectives and agencies from rendering services in situations involving labor disputes or where a petition for an election has been filed, when the Act does not prohibit the employment of unlicensed individuals as watchmen or guards by enterprises involved in such labor controversies.

Pursuant to the authority granted to him by section 16 of the Act the Superintendent of Police on April 21, 1966, with the approval of the Governor, promulgated regulations under the Act.

Section 12 of the regulations classified private detectives into three different categories, (a) those who conduct investigations or inquiries, and (b) those who procure evidence, whom we have called sleuths, and (c) those who protect persons or property, whom we have called guards. By section 14 of the regulations an applicant for a license as a private detective of class (a) or class (b), a sleuth, must have successfully completed 500 hours of study in a private detective schools and 500 hours of practice, while an applicant for a license in class (c) as a guard, is required to have completed only 100 hours of such scholastic study but must have had 900 hours of practice. Thus to the extent of authorizing different licenses and differing qualifica-

tions of education and experience the regulations have distinguished between those licensees whom we have described as sleuths and those whom we have called guards and have imposed much lesser educational requirements upon the latter group.

It thus appears that the plaintiffs' second objection and perhaps their first have been met at least partially by the regulations which the Superintendent of Police and the Governor have promulgated under the Act. It is obvious, however, that difficult questions of constitutional due process remain and that these arise under the due process clause contained in section 7 of Article II of the Constitution of Puerto Rico, as well as under the Federal Constitution. It is equally obvious to us that the resolution of these questions depends in substantial part upon the scope of the Private Detectives Act as it is interpreted by the ultimate authority, the Supreme Court of Puerto Rico. For example, in the light of the exemption by section 31 of watchmen and guards who in their individual capacity are engaged in such trades or occupations in private enterprises or in public, industrial, commercial or agricultural establishments, what scope is to be given to the private detective business which under section 2 specifically includes the business of one who hires his services as a watchman or guard, and in which section 3 makes it illegal for an unlicensed individual to engage? It is clear that if section 31 is to be read very broadly as exempting all individual watchmen and guards engaged in these occupations in public or private industrial, commercial or agricultural establishments the scope of section 3 may be so narrowed with respect to watchmen and guards as to minimize or even eliminate the constitutional questions which the plaintiffs raise. In this connection the definitions of "Private Detective Agency" and "Safety Agency for the Protection of Private Enterprises" set out in section 2 may well be pertinent. For if these definitions are to be read as de-

scribing separate non-overlapping businesses, the "private detective business" referred to in the definition of "Private Detective Agency" would appear not to include the business of rendering watchman and guard service, which is the subject matter of the definition of "Safety Agency". If this is true consistency might require the definition of "Private Detective" appearing in section 2 to be read in the conjunctive as requiring all private detectives subject to the Act to possess the qualifications to perform the first two types of service described in the definition, i. e. investigator and procurer of evidence, as well as the third type, watchman or guard. Under that construction of the Act those individuals qualified only as watchmen or guards would not be "private detectives" within the statutory definition and would consequently not be required to be licensed under the Act, a construction of the Act which it could be argued is supported by the language of section 31 exempting individuals engaged in the occupation of watchman or guard. Thus it appears that until the Supreme Court of Puerto Rico has given authoritative definition to the scope and applicability of the Private Detectives Act consideration of the constitutional issues raised in this case would be premature and perhaps unnecessary.

In such a situation as this the Supreme Court has held that it is appropriate for the district court to abstain from further proceedings until the state courts have been given the opportunity to consider and determine the questions of statutory construction and constitutional validity which are involved. Railroad Com. v. Pullman Co., 1941, 312 U.S. 496; Harrison v. NAACP, 1959, 360 U.S. 167; Martin v. Creasy, 1959, 360 U.S. 219; United Gas Pipe Line Co. v. Ideal Cement Co., 1962, 369 U.S. 134. As to the plaintiffs' right to reserve federal constitutional questions see England v. Louisiana State Board of Medical Examiners, 1964, 375 U.S. 411.

We think that the application of the doctrine of abstention is particularly appropriate in a case such as the present one which involves the construction and validity of a statute of the Commonwealth of Puerto Rico. For a due regard for the status of that Commonwealth under its compact with the Congress of the United States dictates, we believe, that it should have the primary opportunity through its courts to determine the intended scope of its own legislation and to pass upon the validity of that legislation under its own constitution as well as under the Constitution of the United States.

An order will accordingly be entered staying all further proceedings in this case pending the commencement by the plaintiffs of litigation in the courts of the Commonwealth of Puerto Rico appropriate to raise the issues involved in this case and its prosecution to final determination by the Supreme Court of Puerto Rico. If it should appear that such a suit has not been instituted by the plaintiffs within a reasonable time after the entry of our order or that it is not being prosecuted diligently to final determination the defendants may apply for an order dissolving the existing restraining order and dismissing the present suit in this court.

Order Staying Proceedings

It is ordered that all further proceedings in the above entitled action be stayed pending the commencement by the plaintiffs of a suit in the courts of the Commonwealth of Puerto Rico appropriate to raise the issues involved in this action and its prosecution to final determination by the Supreme Court of Puerto Rico. If it should appear that such a suit has not been instituted by the plaintiffs within a reasonable time after the entry of this order or that it is not being prosecuted diligently to final determination the defendants may apply to this court for an order

dissolving the existing restraining order and dismissing the above entitled action in this court.

By the Court:

ALBERT B. MARIS
Circuit Judge

Request for the Acceptance of Stipulation

TO THE HONORABLE COURT:

Now come the Plaintiffs The Wackenhut Corporation, Marvil International Security Services, Inc., Robert S. Hopler and Defendants The Honorable Salvador T. Roig, Superintendent of Police, The Honorable Rafael Hernández Colón, Secretary of Justice, The Honorable Roberto Sánchez Vilella, Governor, Commonwealth of Puerto Rico who by their undersigned attorneys stipulate and request acceptance of this stipulation by the Honorable Court:

1. That Defendants on the 29th day of November, 1965, filed a Motion to Desist from their Motion filed on October 19, 1965. Defendants agree to file an answer to the application for Interlocutory and Permanent Injunction on or before the 1st of December, 1965.

2. Plaintiffs and Defendants by their attorneys agree to proceed as suggested by the Chief Judge to hear the case on the 6th day of February, 1966 or as soon as possible thereafter.

3. Plaintiffs by their attorneys agree to file a brief in support of the constitutional questions therein involved on or before the 17th day of January, 1966.

4. The defendants by their attorney, in turn agree, to file their reply brief on or before the 1st day of February, 1966.

5. Plaintiffs and defendants by their attorneys agree to be ready with whatever witnesses or evidence is necessary

for the date set for the hearing of the case before the Statutory Three-Judge Court.

6. Plaintiffs' and defendants' attorneys agree to reserve the right to file stipulation of facts on or before the date set for the hearing of the case.

WHEREFORE plaintiffs and defendants respectfully pray: That this stipulation be accepted by the Court.

SAN JUAN, Puerto Rico, this 1 day of December, 1965.

McCONNELL, VALDÉS & KELLY
Attorneys for Plaintiffs
The Wackenhut Corporation
and Robert S. Hopler

By: /s/ DONALD M. HALL
Donald Hall

PARKE, GRAVES & RODRÍGUEZ MADURO
Attorneys for Plaintiff Marvil
International Securities
Services Inc.

By: /s/ WILLIAM B. GRAVES
William B. Graves

The Hon. Salvador T. Roig,
Superintendent of Police;
The Hon. Rafael Hernández
Colón, Secretary of Justice,
The Hon. Roberto Sánchez
Vilella, Governor, Commonwealth of Puerto Rico.

By: /s/ MIRIAM NAVEIRA MERLY
Mimiam Naveira Merly
Attorney for the Commonwealth of Puerto Rico